

**HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRL.P.No.2422 OF 2017**

**ORDER:**

This criminal petition is filed under Section 438 of Cr.P.C to enlarge the petitioners/A1 to A3 on bail in the event of their arrest in connection with Crime No.25 of 2017 of Yemmiganur Town Police Station, Kurnool District, registered for the offences punishable under Section 306 read with Section 34 of IPC.

The case of the prosecution is that the deceased Boya Sreenivasulu and the petitioners were carrying on business since 2010 under the name and style of Friends Vegetables Market by investing Rs.1 lakh by each of the partner. The deceased Boya Sreenivasulu committed suicide on 10.08.2016 by falling under running train between Adoni and Isvi Railway Station due to the acts and omissions of the petitioners and also cheating showing loss of Rs.7 lakhs. Initially, the Railway Police registered a case in Crime No.44 of 2015 under Section 174 of IPC and subsequently, the same was transferred to Yemmiganur Town Police Station, who registered a case in Crime No.25 of 2017 for the offence punishable under Section 306 read with Section 34 of IPC.

The main contention of the learned counsel for petitioners is that there were disputes regarding partnership and that after the death of Boya Sreenivasulu, when his family members are interfering with the affairs of the business, the petitioners issued a legal notice dated 16.01.2017 to which a reply notice was issued on 13.02.2017 on behalf of Smt Boya Chittemma, Boya Govindu, Boya Veeresh, Chinna Kondaiah and Pedda Kondaiah. It is also

contended that in the absence of any act or omission done by the petitioners to commit suicide by Boya Sreenivausu, they cannot be made liable for criminal action and prayed to enlarge them on bail.

On the other hand, learned Additional Public Prosecutor contended that Boya Sreenivasulu died long back by committing suicide by falling under a running train due to acts and omissions of the petitioners by writing a suicide note, but the same was disputed by the learned counsel for the petitioners stating that it does not contain any date or signature of the deceased.

As seen from the material on record, the death of Boya Sreenivasulu is unnatural and it is a suicidal death due to fall under a running train between Adoni and Isvi Railway Station and who is responsible for the said suicide is a question.

Further, the word abetment is defined under Section 107 of IPC. According to Section 107 (3) of IPC, intentionally aids, by any act or illegal omission, the doing of that thing, and it is punishable under Section 109 of Cr.P.C.

Here, the act of the petitioners i.e showing Rs.7 lakhs as loss in the partnership business and making certain demands in the legal notice dated 16.01.2017 specifically demanding to restrain all of them not to interfere into vegetable business at Yemmiganur and threatening to complain to the higher officials and also to Yemmiganur Municipal authorities etc. Therefore, the alleged act of the petitioners would fall within the ambit of Section 107(3) of IPC and, moreover, the suicide note, though not contain the date and signature of the deceased Boya Sreenivasulu, if it is in the handwriting of Boya Sreenivasulu, it is sufficient. However, at this stage, it is difficult to rely on the suicide note and taking into

consideration the facts and circumstances of the case, the cause of death by acts or omissions of the petitioners *prima facie* sufficient to conclude that the petitioners are responsible for suicidal death. Therefore, I find that it is difficult to grant pre-arrest bail to the petitioners, at this stage.

Accordingly, the criminal petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

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**M.SATYANARAYANA MURTHY,J**

30.03.2017  
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